

# State of Wisconsin\Government Accountability Board

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JUDGE THOMAS H. BARLAND  
Chair

KEVIN J. KENNEDY  
Director and General Counsel

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## Wisconsin Government Accountability Board 212 East Washington Avenue, Third Floor Madison, Wisconsin May 17, 2011 9:30 a.m.

### Open Session Minutes

<u>Summary of Significant Actions Taken</u>	<u>Page</u>
A. Directed Staff to Continue Review of Requests for Voting Equipment Data	2
B. Received Staff Report on Statewide Recount	3
C. Received Staff Report on Recall Petitions	3

Present: Judge Thomas H. Barland, Judge Gerald Nichol, Judge Gordon Myse, Judge Michael Brennan, Judge Thomas Cane, and Judge David Deininger

Staff present: Kevin Kennedy, Jonathan Becker, Nathaniel E. Robinson, Michael Haas, Shane W. Falk, Sharrie Hauge, Sarah Whitt, and Reid Magney

### **A. Call to Order**

Chairperson Barland called the meeting to order at 9:31 a.m.

### **B. Director's Report of Appropriate Meeting Notice**

Director and General Counsel Kevin Kennedy informed the Board that proper notice was given for the meeting.

### **C. Minutes of Previous Board Meetings**

**MOTION:** Approve the amended minutes of the March 22-23, 2011 meeting of the Government Accountability Board. Moved by Judge Nichol, seconded by Judge Cane. Motion carried unanimously.

### **D. Closed Session**

Adjourn to closed session to consider written requests for advisory opinions and confer with counsel concerning pending litigation.

**MOTION:** Move to closed session pursuant to §§5.05(6a), 19.85(1)(h), 19.851, 19.85(1)(g), to consider written requests for advisory opinions and confer with counsel concerning pending litigation. Moved by Judge Myse, seconded by Judge Nichol.

Roll call vote: Brennan:	Aye	Cane:	Aye
Deiningner:	Aye	Myse:	Aye
Nichol:	Aye	Barland:	Aye

Motion carried.

Hearing no objection, Chairperson Barland called a recess at 9:35 a.m. The Board reconvened in open session beginning at 10:37 a.m.

## **E. Public Comment**

**Andrea Kaminski of Madison** appeared on behalf of the League of Women Voters of Wisconsin to discuss the voter photo ID bill before the Legislature. She said the League opposes the bill but will work with the G.A.B. and other groups to ensure voters have the appropriate identification for voting.

**Susan Crawford of Madison** appeared on behalf of the Joanne Kloppenburg campaign in support of the complaint against Waukesha County Clerk Kathy Nickolaus. She urged the Board to appoint a special investigator.

**John Washburn of Milwaukee** appeared on his own behalf to discuss his Public Records law requests for backup data from electronic voting equipment, and to urge the Board to instruct clerks to retain the information.

Discussion.

Judge Myse told Mr. Washburn the Board supports transparency and believes that records which can legally be released should be released.

## **F. Washburn Inquiry Relating to Voting Equipment Data Retention**

Kevin Kennedy introduced Staff Counsel Shane Falk, who made an oral and written presentation. Staff asks for Board direction to continue to review Mr. Washburn's requests, and to return to a future Board meeting with a report and recommendations addressing Mr. Washburn's concerns.

Discussion.

**MOTION:** Direct staff to continue its review of the issues identified in Mr. Washburn's

inquiry and return to the Board at the July meeting with a report and any recommendations. Moved by Judge Myse, seconded by Judge Cane. Motion carried unanimously.

## **G. Statewide Recount Status Update**

Elections Division Administrator Nathaniel E. Robinson introduced Staff Counsel Michael Haas and Elections Specialist Ross Hein, who made an oral presentation based on the memo included on page 91 of the Board packet. The Board has been informing the public of progress with the update through daily postings to the website. As of the meeting date, results had been certified for 71 of the 72 counties, with only Waukesha County outstanding. Staff has helped Waukesha County with advice on how to streamline the hand-recount process.

Judge Cane asked whether staff was seeing any errors the Board should be concerned about.

Ross Hein said the recount numbers have been comparable to the Election Night reports, and that staff has instituted a review process to identify and seek clarification for any reporting unit with more than a 10-vote difference. Nat Robinson said the recount has been good for identifying lessons learned and best practices.

## **H. Recall Petition Status Update**

Nat Robinson introduced Elections Specialist David Buerger, who made an oral presentation based on the memo included on page 110 of the Board materials. He said a total of nine recall petitions have been offered for filing with approximately a quarter-million signatures, and reviewed the intake process.

Discussion.

Kevin Kennedy said the goal is to combine as many of the nine elections as possible at the same time. The Board will hold special meetings consider the first three petitions on May 23, and the remaining six on May 31.

## **I. Report on Accessibility and Voting Equipment Security Compliance Audits**

Nat Robinson introduced Elections Specialist Jo Futrell, who coordinated field audits during the April 5 Spring Election and the May 3 Special Elections. Jo Futrell made an oral presentation based on the memo included on page 112 of the Board materials. On April 5, staff teams visited 29 polling places in 28 municipalities; on May 3, staff teams visited 30 polling places in 28 municipalities. In addition to accessibility audits, staff also reviewed electronic voting system security. Futrell reviewed the team's preliminary findings and next steps.

Discussion.

## **J. Report on Enhanced Mail-in Voter Registration**

Nat Robinson introduced SVRS Functional Team Lead Sarah Whitt and IS Technical Resources John Hoeth, project manager of the Enhanced Mail-In Voter Registration system. They made an oral presentation based on a written memo included on page 119 of the Board materials. The system was originally limited to people with a driver license or state-issued ID card, but after citizen requests and Board direction, the system will now be open to all people who are able to register to vote. The system will also be available up to Election Day so poll workers can use it to fill out registration forms. The system will be going into user acceptance testing in late May and early June.

Discussion.

## **K. Legislative Status Report**

Kevin Kennedy referred Board members to the report from Mike Haas and SVRS Applications Trainer Edward Edney on page 121 of the Board materials. He provided an update on the voter photo ID bill passed by the Assembly and discussed significant points in the bill. Provisions dealing with the date of the Partisan Primary and the Military and Overseas Voter Empowerment Act were removed from the bill, and will be considered separately.

Discussion.

## **L. Administrative Rules Status Report**

Shane Falk made an oral presentation based on a written report included on page 123 of the Board materials. Assembly Bill 8 from the Special Session has not been concurred in and signed by the Governor. Rule GAB 1.91 has been objected to by a member of the public, and the Joint Committee for Review of Administrative Rules has until June 6 to act on the rule.

Discussion.

## **M. Director's Report**

### **Ethics and Accountability Division Report – campaign finance ethics, and lobbying administration**

A written report from Ethics and Accountability Division Administrator Jonathan Becker was included in the Board packet. Mr. Becker presented an oral report. He discussed the January 2011 Continuing Reports, noting that of the 1,300 registrants, 56 reports are still

outstanding. Staff is also working hard on the Lobbying website, and keeping current with Statements of Economic Interest. He noted that Campaign Finance Auditor Dennis Morvak will be retiring on July 1. He also reported on his recent trip to Slovenia, where he presented talks on government ethics.

#### **Office of Director and General Counsel Report – general administration**

A written report from Kevin J. Kennedy, Sharrie Hauge and Reid Magney was included in the Board packet. Ms. Hauge reported on the status of the agency's budget request, noting that appearances before the Joint Committee on Finance have been postponed twice. She also introduced two new employees, Accountant Mike Lauth and Office Operations Associate Ian Stewart, and reported on the status of open positions.

Discussion.

Judge Barland noted the report that staff has now achieved 100 percent certification with Contract Sunshine.

#### **Elections Division Report – election administration**

A written report from Nathaniel E. Robinson was included in the Board packet. Mr. Robinson gave an oral presentation, and introduced SVRS UAT Lead Ann Oberle, who discussed the Four Year Voter Record Maintenance project. Staff recently mailed postcards to 240,000 registered voters who have not voted in the last four years.

Discussion.

Judge Brennan expressed concern with the bill giving the Governor more power to review administrative rules.

Discussion.

Kevin Kennedy noted that two Board members have conflicts with the scheduled meeting on July 25.

**MOTION:** To reschedule the July 25 meeting to August 2. Moved by Judge Nichol, seconded by Judge Cane. Motion carried.

The Board recessed for lunch from 1:07 p.m. to 1:41 p.m.

#### **K. Closed Session**

Adjourn to closed session to consider written requests for advisory opinions and the investigation of possible violations of Wisconsin's lobbying law, campaign finance law, and Code of Ethics for Public Officials and Employees, confer with counsel concerning

pending litigation, and consider performance evaluation data of a public employee over whom the Board exercises responsibility.

**MOTION:** Move to closed session pursuant to §§5.05(6a), 19.85(1)(h), 19.851, 19.85(1)(g), and 19.85(1)(c), to consider written requests for advisory opinions and the investigation of possible violations of Wisconsin's lobbying law, campaign finance law, and Code of Ethics for Public Officials and Employees; and confer with counsel concerning pending litigation and consider performance evaluation data of a public employee of the Board. Moved by Judge Myse, seconded by Judge Cane.

Roll call vote: Brennan:	Aye	Cane:	Aye
Deininger:	Aye	Myse:	Aye
Nichol:	Aye	Barland:	Aye

Motion carried.

Hearing no objection, Chairperson Barland called a recess. The Board reconvened in closed session beginning at 1:42 p.m.

**Summary of Significant Actions Taken in Closed Session:**

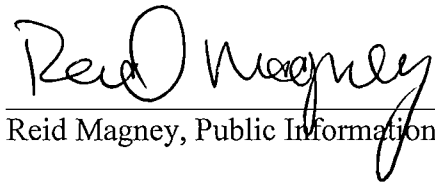
- A. Requests for Advice: Three matters considered.
- B. Investigations and Enforcement: Six pending matters considered; two matters closed, no matters dismissed, one investigation authorized, no lawsuits authorized.
- C. Litigation: Six pending matters considered.

The Board adjourned in closed session at 4:45 p.m.

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The next regular meeting of the Government Accountability Board is scheduled for Tuesday, May 23, 2011, at the G.A.B. offices located at 212 East Washington Avenue, Third Floor, in Madison, Wisconsin beginning at 9 a.m.

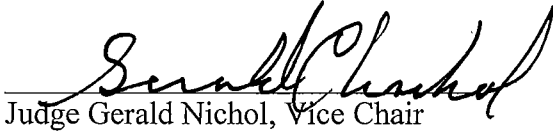
May 17, 2011 Government Accountability Board meeting minutes prepared by:



Reid Magney, Public Information Officer

May 24, 2011

March 17, 2011 Government Accountability Board meeting minutes certified by:



Judge Gerald Nichol, Vice Chair

June 8, 2011